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September 30, 2011

Via Overnight Delivery and ECFS

Ms. Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th St., S.W.

Washington, DC 20554

Attn: Joel Gurin, Chief, Consumer & Governmental Affairs
Bureau, TRS Certification Program

RE: Request for Waiver of Sections 64.604(c)(5)(iii)(N)(1)(i) and (ii) by BIS Relay, LLC ("BIS") In the Matter of Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51

Dear Secretary Dortch and Chief Gurin:

On April 6, 2011, the Commission released the *VRS Fraud Order and FNPRM*¹, which adopted new rules to detect and prevent fraud and abuse in the provision of Video Relay Services ("VRS") and sought comment on proposed revisions to the certification process to better ensure that potential providers are qualified to provide Internet-based relay service. These new rules became effective June 1, 2011.² On May 31, 2011, however, the Commission stayed the effective date of Section 64.604(c)(5)(iii)(N)(1)(iii) (the "Section (iii) Requirement") until October 1, 2011 (the "Section (iii) Stay").

BIS, by way of its corporate predecessors, submitted multiple applications for certification as an eligible VRS provider³ under the old rules, the earliest of which was filed with the Commission in January of 2010, and earlier this week, on September 26th, submitted a new application for certification as an eligible VRS provider pursuant to the new rules. BIS specifically notes that the new application for certification demonstrates its compliance with the rules as they stand today, as well as provides the additional information and documentation required under Paragraphs 62 and 63 of the *VRS Fraud Order and FNPRM*, all of which are incorporated herein by reference.

¹ *Structure and Practices of the Video Relay Service Program*, report and order and further notice of proposed rulemaking, 26 FCC Rcd 5545,5546 (Apr. 6, 2011) ("*VRS Fraud Order and FNPRM*")

² FCC, *Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 24393 (May 2, 2011)

³ As defined in 47 C.F.R. § 64.604(c)(5)(iii)(F)(1)-(4).

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Since such time, BIS asserts that it has been in compliance with the Commission's rules at all times in that it has never held itself out as an approved provider of VRS, has consistently remained up front and transparent about its subcontractor relationships with certified providers such as ZVRS, SNAP and CAC, and has always routed all calls through a single URL. It has further demonstrated its willingness and desire to be regulated by the Commission to the full extent of the rules and regulations governing VRS, by way of its submission of applications for certification as early as January, 2010, and as recently as this week.

Although BIS believes that it has been in compliance with the Commission's rules at all times, BIS nonetheless submits this letter to the Commission to request a waiver of certain portions of the new rules adopted pursuant to the *VRS Fraud Order and FNPRM*. Specifically, in order to confirm and ensure its rights and eligibility to participate in the VRS market and to retain and/or receive reimbursements as a subcontractor from the TRS Fund Administrator for the period from June 1, 2011 through today September 30th, and hereafter should the Commission not act on BIS' current application in short order, BIS hereby requests a waiver of (i) the requirement that a VRS provider be certified in order for the entity to hold itself out to the general public as providing VRS⁴ (the "Section (i) Requirement"), and (ii) the requirement that VRS providers offer VRS under the name by which the provider was certified and the requirement that the providers must route all VRS calls through a single URL address for that brand (the "Section (ii) Requirement,"⁵). In the event (i) BIS does not receive certification by tomorrow, October 1st or (ii) BIS's application is not acted on and the Section (iii) Stay is extended beyond October 1st, BIS requests such waiver be extended accordingly.

To the best of its knowledge, BIS has operated in full compliance with existing rules and orders since it began processing VRS calls and since it first applied for certification in 2010, and, indeed, since it began offering VRS to the public in 2002. BIS has worked as a subcontractor to several eligible providers and in each of these relationships has at all times strived to hold itself to the highest standards of the VRS industry, and has remained at all times compliant. BIS strongly believes that its tenure and track record clearly show that it is qualified to provide Internet-based relay services in full compliance with the Commission's rules.

As is discussed more fully in its current application, in response to the *VRS Fraud Order and FNPRM*, BIS has taken all necessary measures to become an approved provider on its own, from investing in and implementing its own platform without the need for technology or support provided by another VRS provider, to ensuring that it has the facilities and resources, including call centers and interpreters, to provide 24/7 coverage and quick emergency response without requiring rollover support of another provider,

Based on the *VRS Fraud Order and FNPRM*, BIS commits to brand all services it may offer until such time as it's conditional or permanent certification is granted under the logo and brand name of the eligible provider that it may work with. BIS believes that doing so would presumably obviate the need for any further waiver of the Section (i) and (ii) Requirements; however, BIS is also cognizant of the fact that the stay of the Section (iii) Requirement expires

⁴ 47 C.F.R. § 64.604(c)(5)(iii)(N)(l)(i).

⁵ *Id.* § 64.604(c)(5)(iii)(N)(l)(ii).

on October 1, 2011. Therefore, BIS is also submitting simultaneously herewith a request for waiver of the Section (iii) Requirement in the event it is not extended or BIS does not receive certification by such time.

As set forth in the *VRS Fraud Order and FNPRM*, it is also BIS's understanding that the Commission has two primary objectives with respect to the Commission's rule regarding URL usage, which requires VRS providers to route all calls through a single URL address used for each name or sub-brand used.⁶ First, the Commission is concerned that the use of multiple URLs prevents VRS users from knowing the identity of the certified provider processing and responsible for the user's calls. Second, the Commission is concerned that the use of multiple URLs enables VRS providers to engage callers to make illicit VRS calls in exchange for a portion of the TRS Fund compensation associated with such calls. Specifically, to the extent that such users utilize separate URLs, this enables the VRS provider to track the illicit calls made by such user for purposes of compensating the user.⁷ BIS believes that its use of a single URL for all operations, and its clear identification of the eligible provider by which it operates would meet these goals.

For the reasons set forth herein, BIS is seeking a waiver, effective as of June 1, 2011 and ending on September 30th (or later as may be appropriate) of (i) the requirement that a VRS provider be certified in order for the entity to hold itself out to the general public as providing VRS and (ii) the requirement that VRS providers offer VRS under the name by which the provider was certified.

The Commission's grant of BIS's Waiver Request as herein stated will enable BIS to receive reimbursement from the TRS Fund Administrator for those VRS minutes relayed by BIS during the above-specified period and will allow BIS to continue to provide invaluable VRS to thousands of customers without interruption. Should you need additional information with regard to this request, please don't hesitate to contact me at 210-698-0500.

Respectfully submitted,


Wesley N. Waite, Sr.

⁶ 47 C.F.R. § 64.604(e)(5)(iii)(N)(1)(ii) ("Providers must route all VRS calls through a single URL address *used for each name or sub-brand used.*") (emphasis added); *see also VRS Fraud Order and FNPRM*, 26 FCC Red at ¶50.

⁷ *VRS Fraud Order and FNPRM*, 26 FCC Red at ¶50.

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STATE OF TEXAS

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) ss.

COUNTY OF KENDALL

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VERIFICATION

I swear under penalty of perjury that I am Wesley N. Waite, Sr., Chief Executive Officer BIS Relay, Inc., an officer of the above-named applicant, and that I have examined the foregoing submissions, and that all information required under the Commission's rules and orders has been provided and all statements of fact, as well as all documentation contained in this submission, are true, accurate, and complete.

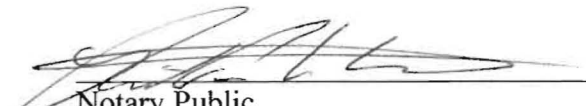


Wesley N. Waite, Sr.

CEO

Subscribed and sworn to or affirmed before

me this 30th day of September, 2011.



Notary Public
(Affix seal or stamp)

